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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,165	09/20/2005	Graham Strauss	9532-2	8329
20792 7590 02/16/2010 MYERS BIGEL, SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627				
EXAMINER				
NGUYEN, JIMMY T				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
02/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,165

Applicant(s)

STRAUSS ET AL.

Examiner

JIMMY T. NGUYEN

Art Unit

3725

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-28 is/are pending in the application.
- 4a) Of the above claim(s) 14-22, 24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-13, 23, 25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/20/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 13, 2010 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, lines 1-2, there is no antecedent basis for the limitation “the body” in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-9, 12-13, 23, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennewell et al. (hereinafter "Ken") (WO 01/30501 A1) (first claims interpretation).

Ken discloses a distributor plate (fig. 2) for an impelling rotor (fig. 1A) of a rotating shaft impactor (see claim 31), where the impelling rotor is a chamber (fig. 1B), the distributor plate being in use held in a fixed position with respect to the impelling rotor (fig. 1B), wherein the distributor plate consists of a single base portion having a substantially planar continuous upper surface (the Examiner defines a circular upper surface of a ref. number 19 where a bottom surface of the component (11) attached thereto (see fig. 7) is the substantially planar continuous upper surface as claimed) and a single wear element (fig. 7) comprising a substantially planar circular disc (fig. 7), the single wear element being positioned on and affixed to the upper surface (fig. 7) to alone entirely cover the upper surface of the base portion (fig. 7) onto which the material would otherwise be received. The wear element is made of wear resistance material (page 8, lines 29). A body includes a projection (fig. 7) at its peripheral edge (fig. 7) which is used to locate the wear element on the upper surface of the base portion (fig. 7), the projection is a peripheral lip (fig. 7). A lower peripheral edge of the base portion is bevelled (20) in at least one position (fig. 8). The entire lower peripheral edge (20) is bevelled (20) (fig. 8). The upper surface if the base portion has a constant thickness throughout (fig. 7).

Claims 1, 7-9, 12-13, 23, 25, and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennewell et al. (hereinafter “Ken”) (WO 01/30501 A1) (second claims interpretation).

Ken discloses a distributor plate (fig. 2) for an impelling rotor (fig. 1A) of a rotating shaft impactor (see claim 31), where the impelling rotor is a chamber (fig. 1B), the distributor plate being in use held in a fixed position with respect to the impelling rotor (fig. 1B), wherein the distributor plate consists of a single base portion (2 of fig. 5 or 17 of fig. 7) having a substantially planar continuous upper surface (the Examiner defines a circular upper surface of a ref. numbers 2 or 17 where a bottom surface of the component (3 or 19) attached thereto (see figs. 5 or 7) is the substantially planar continuous upper surface as claimed) and a single wear element (3 or 19) comprising a substantially planar circular disc (figs. 5 or 7), the single wear element being positioned on and affixed to the upper surface (figs. 5 or 7) to alone entirely cover the upper surface of the base portion (figs. 5 or 7) onto which the material would otherwise be received. The wear element is made of wear resistance material (page 7, lines 29-20 or page 8, lines 29). A body (17) includes a projection (fig. 7) at its peripheral edge (fig. 7) which is used to locate the wear element on the upper surface of the base portion (fig. 7), the projection is a peripheral lip (fig. 7). A lower peripheral edge of the base portion is bevelled (20) in at least one position (fig. 8). The entire lower peripheral edge (20) is bevelled (20) (fig. 8). The upper surface if the base portion has a constant thickness throughout (fig. 7). The base portion has a basal spigot (11) with a downward facing cavity (fig. 7), the cavity being arranged to receive a coupling bolt (15 and 16) therein when the plate is counted in the clamper (fig. 7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ken (as applied to claim 1 of the second claims interpretation as set forth above) in view of Shinohara et al. (hereinafter “Shino”) (US 6,685,794).

Ken discloses the invention substantially as claimed as set forth above. Ken discloses the wear element (3 or 19) is attached to the body (2 or 17) by use of an adhesive element (page 7, line 30), Ken does not disclose at least one projection ring acts as a spacer between the body and the wear element. However, Shino teaches that it is old and well known to provide a projection ring (col. 2, line 51) to act as a spacer between two substrates to join the substrates together (col. 2, lines 15-58). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the wear element and the body of Ken with at least one projection ring in-between, as taught by Shino, in order to improve the bonding the wear element to the body, since such bonding method is old and well known in the art for bonding two substrates together.

Response to Arguments

Applicant's arguments filed January 13, 2010 have been fully considered but they are not persuasive.

In general, Applicant argued that Kennewell fails to disclose the amended claims 1, 23 and 25 because the surface of Kennewell distributor plate can not be considered as continuous because there is a central aperture recess for receiving a member (12). This argument has been considered. However, the claims do not define the claimed upper surface includes a central portion of the plate. The claims merely recite, “.. a single base portion having a substantially planar continuous upper surface”, and this claimed upper surface can be anywhere on the entire upper surface of the plate such as one as defined by the Examiner in the rejections above. Accordingly, Kennewell does disclose the claimed limitations of claims 1, 23, and 25 as explained in the rejection under 35 USC 102 (b) above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JIMMY T. NGUYEN whose telephone number is (571)272-4520. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Fri. 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on (571) 272- 4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen
February 4, 2010

/Jimmy T Nguyen/
Primary Examiner, Art Unit 3725